

1981 S.C. Op. Atty. Gen. 113 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-89, 1981 WL 96615

Office of the Attorney General

State of South Carolina

Opinion No. 81-89

October 29, 1981

*1 The Honorable Richard W. Riley
Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

Your letter of October 12, 1981, concerns indictment by a federal grand jury of Chief L. Edward Simmons of North Charleston and further raises the question as to whether Chief Simmons is considered a State official since he serves on the South Carolina Law Enforcement Training Council.

As Chief Simmons has resigned as Chief of Police, he is no longer considered a member of the Training Council by virtue of the provisions of [Section 23-23-30\(12\)\(E\), 1976 Code](#) of Laws, which provides that:

‘Any Council member who terminates his holding of the office or employment which qualified him for appointment shall immediately cease to be a member of the Council; the person appointed to fill the vacancy shall do so for the unexpired term of the member whom he succeeds.’

Mr. Simmons served on the Training Council by virtue of the provisions of the organic act which provides that ‘its membership shall consist of one chief of police from a municipality having a population of more than 10,000—.’

I advise therefore, that it is in order that you make an appointment of an individual who is a chief of police of a city containing more than 10,000 to serve in the place and stead of Mr. Simmons.

Concerning the second question posed by you, I advise that, in my opinion, membership upon the Training Council constitutes an office within the meaning of that term as used in the Constitution of this State.

The Training Council consists of twelve members at least five of whom hold the offices ex officio and the remaining members being appointed from certain designated individuals who hold designated offices. Those members who do not sit on the Training Council ex officio are appointed by the Governor from such designated classes for terms of four years. The duties of the Training Council are set forth by law and basically provide for the management of the Criminal Justice Academy established by the provisions of the statute and the training and certification of law enforcement officers who may complete the training regimen prescribed by the Training Council. Without the certification of completion of the training provided by the Training Council and the certification of such accomplishment, a law enforcement officer below the grade of chief cannot be employed by a law enforcement agency of this State to enforce the laws or ordinances of this State.

The duties employed by the Training Council are, in my opinion, an exercise of a portion of the sovereign power of the State in the management and training of law enforcement officers. In performing its functions, the members of the Training Council, therefore, act as officers of the State.

I advise, therefore, that, in my opinion, the members of the Training Council are officers of the State and subject to such authority and restrictions as are imposed upon such individuals.

Very truly yours,

*2 Daniel R. McLeod
Attorney General

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